

FILED '11 JUN 14 12:20 USDC-ORM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LINDA A. HENSON,
Plaintiff,

Case No. 1:09-cv-03015-CL

v.

NEW YORK LIFE INSURANCE
CO.,

ORDER

Defendant.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been filed, this court reviews legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (9th Cir. 1983).

I agree with Magistrate Judge Clarke that the insurance contract at issue does not provide Annual Renewal Disability Income (ARDI) coverage because the amended application, which does

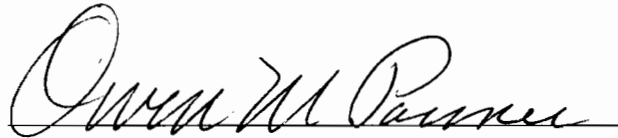
not include ARDI coverage, supersedes the original application. I also agree that the residual rider does not apply to plaintiff. Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#56) is adopted. Defendant's motion for summary judgment (#25) is granted.

IT IS SO ORDERED.

DATED this 14 day of June, 2011.

A handwritten signature in cursive script, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE